

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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D.R. and J.R., on behalf of A.R.,

ANSWER
Plaintiffs,
08CV01556(MGC)(HBP)

-against-

New York City Department of Education,

Defendant.
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Defendant, by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its Answer to the Complaint, respectfully alleges as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits plaintiffs purport to proceed as set forth therein, and respectfully refers the Court to the statute cited therein for a full and complete statement of its contents.

2. Denies the allegations set forth in paragraph "2" of the complaint.

3. Denies the allegations set forth in paragraph "3" of the complaint, except admits that plaintiffs purport to invoke this Court's jurisdiction pursuant to the statute and decision cited, and respectfully refers the Court to the statute and decision cited therein for a full and complete statement of their contents.

4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiffs purport to lay venue in this Court's jurisdiction, and that plaintiff has offices located in this district.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint, except admits that A.R. is a student

within the New York City Department of Education (“DOE”) and is entitled to the rights and procedural safeguards mandated by applicable law and statutes.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "6" of the complaint.

7. Denies the allegations set forth in paragraph "7" of the complaint, except admits that plaintiffs purport to proceed as set forth therein, and respectfully refers the Court to the statute cited therein for a full and complete statement of its contents.

8. Admits the allegations set forth in paragraph "8" of the complaint.

9. Denies the allegations set forth in paragraph "9" of the complaint, except admits plaintiffs initiated an administrative proceeding, Case No. 58465 against the defendant, and respectfully refers the Court to the due process complaint in that proceeding for a complete statement of the relief requested and the alleged basis of such relief.

10. Admits the allegations set forth in paragraph "10" of the complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the complaint.

12. Admits the allegations set forth in paragraph "12" of the complaint, and respectfully refers the Court to the decision cited for a complete and accurate statement of its contents.

13. Denies the allegations set forth in paragraph "13" of the complaint, except admits plaintiffs initiated an administrative proceeding, Case No. 101916 against the defendant, and respectfully refers the Court to the due process complaint in that proceeding for a complete statement of the relief requested and the alleged basis of such relief.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the complaint.

15. Admits the allegations set forth in paragraph "15" of the complaint, and respectfully refers the Court to the decision cited for a complete and accurate statement of its contents.

16. Denies the allegations set forth in paragraph "16" of the complaint, except admits plaintiffs initiated an administrative proceeding, Case No. 105679, against the defendant, and respectfully refers the Court to the due process complaint in that proceeding for a complete statement of the relief requested and the alleged basis of such relief.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "17" of the complaint.

18. Denies the allegations set forth in paragraph "18" of the complaint, except admits that Impartial Hearing Officer John J. Naun rendered an award in favor of A.R. in Case No. 105679, and respectfully refers the Court to the decision cited for a complete and accurate statement of its contents.

19. Denies the allegations set forth in paragraph "19" of the complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "20" of the complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "21" of the complaint.

FOR A FIRST DEFENSE:

22. This action is barred in whole or in part by the applicable statute of limitations.

FOR A SECOND DEFENSE:

23. This Court does not have jurisdiction inasmuch as plaintiffs have made no demand and there is no amount in controversy.

FOR A THIRD DEFENSE:

24. Inasmuch as plaintiffs have made no demand, they have failed to exhaust their administrative remedies.

WHEREFORE, defendants request judgment dismissing the complaint in its entirety and denying all relief requested therein, together with such other and further relief as the Court deems just and proper.

Dated: New York, New York
April 9, 2008

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By: /s/
Janice Casey Silverberg (JS4629)
Assistant Corporation Counsel